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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,600	05/16/2001	Dan Dan Yang		9354

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EXAMINER

NGO, HUNG NHAT

ART UNIT	PAPER NUMBER
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2633

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DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/855,600

Applicant(s)

DAN YANG

Examiner

Hung N Ngo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-8, 12, 14, 15, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 13 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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1. Claims 4-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites the limitation "said signal quality references" in lines 10 and 11. There is insufficient antecedent basis for this limitation in the claim.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8, 12 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Salomaa (US 2002/0030868). Salomaa discloses a method of determining signal quality of at least one optical signal transmitted to a node (31) in an optical network using an optical carrier, the method comprising: a) gathering data related to signal quality for the at least one optical signal (Fig. 3); b) processing the data to determine signal quality parameters of the at least one optical signal (Fig. 3, line 13 of page 3); c) retrieving signal quality references from a location logically remote from the node (paragraphs 0014, 0015, 0016, pages 1 and 2); d) comparing the signal quality parameters with a signal quality references (Fig. 5). The step a) comprises: a1) receiving the optical carrier and said at least one optical signal at the node (paragraph 2005); a2) scanning a specific wavelength band of the optical carrier for signal characteristics of the at least one optical signal (line 13 of page 3), the wavelength band being

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substantially centered around a wavelength used by the at least one optical signal (see Fig. 4 and paragraph 0033).

The step a2) is accomplished using a tunable optical filter (32, Fig. 5).

The signal quality references are retrieved from an optical network terminal (paragraphs 0035 and 0036). The wavelength used by said at least one optical signal is determined according to a predetermined standard (see claims 3 and 4).

Salomaa further discloses wavelength band of "only individual wavelengths" (line 13 of page 3) being scanned, and Fig. 4 and paragraph 0033 disclose both upper sideband and lower sideband of the carrier signal being passed through the filter; therefore, the reference meets the limitation "scanning a specific wavelength band of said optical carrier for signal characteristics of a specific optical signal, said wavelength band being substantially centered around a wavelength used by a specific optical signal" recited in claim 12.

Salomaa further discloses an optical detector (33) receiving a filtered optical signal from the tunable optical filter (32); an internal controller (35, Fig. 5) coupled to and controlling the filter and the detector, the controller receiving an output of said detector for processing; wherein the controller determines signal characteristics of a specific optical signal based on the output of said detector, the specific optical signal being one of the plurality of optical signals.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 14, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salomaa (US 2002/0030868). Salomaa does not disclose the network being used in a computer

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network. However, it well known in the art to utilize optical network for improving computer network speed and data handling capacities since optical signal transmitting medium enable high speed, high capacity communication between numerous computer network components. Therefore, it would have been obvious to use optical network of Salomaa in a computer network for improving computer network speed and data handling capacities. Other features in the preamble of claim 14 such as "Computer readable media containing computer readable and executable code" are typical features of a computer network; therefore, theses features does not distinguish over the reference.

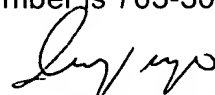
5. Claims 13 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 9-11 and 16 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung N Ngo whose telephone number is (703) 308-0297. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 703-305-4729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Hung N Ngo
Primary Examiner
Art Unit 2633

hn